
HOUSE BILL No. 1228

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-8.1-5.1.

Synopsis: Parental participation in student discipline. Sets forth the procedures that a school corporation must follow before expelling a student, including notice to the student and the student's parent and the conduct of expulsion meetings. Sets forth the grounds for a judicial appeal of an expulsion.

Effective: July 1, 2004.

Bardon

January 15, 2004, read first time and referred to Committee on Judiciary.

C
o
p
y



Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1228

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-8.1-5.1-13 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) A
3 superintendent of a school corporation may conduct an expulsion
4 meeting or appoint one (1) of the following to conduct an expulsion
5 meeting:

6 (1) Legal counsel.

7 (2) A member of the administrative staff if the member:

8 (A) has not expelled the student during the current school
9 year; and

10 (B) was not involved in the events giving rise to the expulsion.

11 The superintendent or a person designated under this subsection may
12 issue subpoenas, compel the attendance of witnesses, and administer
13 oaths to persons giving testimony at an expulsion meeting.

14 (b) An expulsion may take place only after the student and the
15 student's parent are given notice of their right to appear at an expulsion
16 meeting with the superintendent or a person designated under
17 subsection (a). Notice of the right to appear at an expulsion meeting

2004

IN 1228—LS 7324/DI 71+



C
o
p
y

shall:

- (1) be made by certified mail or by personal delivery;
- (2) contain the reasons for the expulsion, **including a summary of the evidence that will be presented against the student;**
- (3) **indicate the penalty, if any, requested by the student's principal, including the length of the proposed expulsion;**
- (4) **contain a statement that before the meeting the student, the student's parent, or the student's representative:**

- (A) **may examine the student's academic and disciplinary records and any affidavits to be used at the meeting; and**

- (B) **has a right to know the identity of witnesses that will appear against the student, except where the release of the witnesses' names may, in the opinion of the person conducting the meeting, subject the witnesses to unreasonable harassment; and**

- ~~(5)~~ **(5) contain the procedure for requesting an expulsion meeting.**

(c) The person conducting an expulsion meeting:

- (1) **shall be available to the student, the student's parent, or the student's representative before the meeting to answer questions about the nature and conduct of the meeting;**

- (2) **shall conduct the meeting in the manner set forth in section 13.5 of this chapter;**

- ~~(1)~~ **(3) shall make a written summary of the evidence heard at cause a shorthand, audiotape, or videotape record of the expulsion meeting to be made;**

- ~~(2)~~ **(4) may take action that the person finds appropriate; and**

- ~~(3)~~ **(5) must give notice of the action taken under subdivision (2); (4), including a report of the reasons for the action, to the student and the student's parent within two (2) school days after the action is taken.**

(d) If the student or the student's parent within ten (10) days of receipt of a notice of action taken under subsection (c) makes a written appeal to the governing body, the governing body:

- (1) shall hold a meeting to consider:

- (A) **the written summary of evidence record prepared under subsection ~~(c)(1)~~; (c)(3); and**

- (B) **the arguments of the principal and the student or the student's parent;**

- unless the governing body has voted under subsection (f) not to hear appeals of actions taken under subsection (c); and**

- (2) may take action that the governing body finds appropriate.**

The decision of the governing body may be appealed only under

C
O
P
Y



section 15 of this chapter.

(e) A student or a student's parent who fails to request and appear at an expulsion meeting after receipt of notice of the right to appear at an expulsion meeting forfeits all rights administratively to contest and appeal the expulsion. For purposes of this section, notice of the right to appear at an expulsion meeting or notice of the action taken at an expulsion meeting is effectively given at the time when the request or notice is delivered personally or sent by certified mail to a student and the student's parent.

(f) The governing body may vote not to hear appeals of actions taken under subsection (c). If the governing body votes not to hear appeals, after the date on which the vote is taken a student or parent may appeal only under section 15 of this chapter.

SECTION 2. IC 20-8.1-5.1-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13.5. (a) An expulsion meeting under section 13 of this chapter shall be held within five (5) school days after the meeting is requested, unless the date is changed by the person conducting the meeting for good cause. A meeting may not be held with less than two (2) school days notice to the student who is the subject of the meeting, the student's parent, and the student's representative, unless the student or the student's parent consents to a shorter period. Either the school corporation or the student may obtain a continuance of the meeting for cause. However, neither party may obtain more than two (2) continuances.**

(b) An expulsion meeting under section 13 of this chapter may be attended by:

- (1) the person conducting the meeting;**
- (2) the superintendent, if the superintendent is not conducting the meeting;**
- (3) the principal;**
- (4) the student who is the subject of the meeting;**
- (5) the student's parent;**
- (6) the student's representative, who may be, but is not required to be, an attorney; and**
- (7) the school corporation's legal counsel.**

A witness may be present only when the witness is presenting information. If the student's psychological or emotional condition is being discussed, the student may be excluded from the meeting at the discretion of the person conducting the meeting, with the consent of the student's parent. The person conducting the meeting

C
o
p
y



may exclude anyone whose actions disrupt the orderly conduct of the meeting. The meeting is closed to the public.

(c) The student who is the subject of the meeting may testify in the student's own defense and may be questioned on that testimony. However:

- (1) the student is not required to testify; and
- (2) if the student chooses not to testify, the student may not be threatened with punishment or punished later for refusing to testify.

(d) The principal may present to the person conducting the meeting the statement in affidavit form of any person having information about the student's conduct and the student's record if the affidavits and records have been made available to the student, the student's parent, and the student's representative before the meeting.

(e) The person conducting the meeting is not bound by the rules of evidence or any other courtroom procedures in conducting the meeting.

(f) The student, the student's parent, the student's representative, the principal, and the person conducting the meeting may:

- (1) present witnesses at the meeting, if the witnesses' identities are made available to all parties under section 13(b)(4)(B) of this chapter; and
- (2) cross-examine a witness who presents testimony at the meeting.

(g) If the principal fails to appear at the meeting that has not been continued or to present evidence, the person conducting the meeting shall dismiss the charge of misconduct against the student. If the student fails to appear in person or by representative at a meeting that has not been continued, the person conducting the meeting shall make a decision based on the evidence presented by the principal, and the student has no further right to a meeting under this section.

(h) If more than one (1) student is charged with misconduct resulting from the same incident and the facts are substantially the same for all the students involved, a single expulsion meeting may be conducted for the students as a group if the person conducting the meeting believes:

- (1) a single meeting is not likely to result in confusion; and
- (2) no student's interests will be substantially prejudiced by a single meeting.

C
O
P
Y



1 However, if during the meeting the person conducting the meeting
 2 finds that a student's interests will be substantially prejudiced by
 3 being involved in a single meeting, the person conducting the
 4 meeting may order a separate meeting for the student.

5 (i) If requested, the right to an expulsion meeting may be waived
 6 by a written instrument signed by both the student who is the
 7 subject of the meeting and the student's parents, if the waiver is
 8 made voluntarily and with knowledge of the procedure available
 9 under this section.

10 (j) The school corporation's legal counsel may be present at an
 11 expulsion meeting either to act as the designee of the principal or
 12 to advise the person conducting the meeting concerning the
 13 conduct of the meeting. If the legal counsel advises the person
 14 conducting the meeting, the legal counsel may not act as the
 15 principal's designee or the principal's counsel.

16 SECTION 3. IC 20-8.1-5.1-15 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. Judicial review of
 18 a governing body's action under this chapter by the circuit or superior
 19 court of the county in which a student who is the subject of the
 20 governing body's action resides is limited to the ~~issue~~ **issues** of whether
 21 the governing body acted:

- 22 (1) without following the procedure required under this chapter;
- 23 (2) **arbitrarily or capriciously;**
- 24 (3) **without substantial evidence; or**
- 25 (4) **unlawfully.**

C
O
P
Y

